

AMENDED IN SENATE AUGUST 26, 2002

AMENDED IN SENATE AUGUST 13, 2002

AMENDED IN SENATE JUNE 20, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

## ASSEMBLY BILL

**No. 2879**

**Introduced by Assembly Member Strom-Martin**

February 25, 2002

---

An act to amend Sections 68543.5, 75071, ~~75072, 75094~~ and 75072 of, and to add Section 75074 to, the Government Code, relating to judges' retirement.

### LEGISLATIVE COUNSEL'S DIGEST

AB 2879, as amended, Strom-Martin. Judges' retirement.

Existing law prescribes the rates and terms of compensation applicable to a retired judge assigned to serve in a trial court, and prescribes different rates and terms of compensation applicable to a retired judge assigned to sit in a court of appeal or the Supreme Court.

Under this bill, the rates and terms of compensation applicable to a retired judge assigned to serve in a trial court shall be applicable to retired judges assigned to serve in any court of record.

Existing law, the Judges' Retirement Law, authorizes judges to elect one of 4 optional settlements in lieu of the retirement allowance for his or her life alone. Three of those optional settlements provide for a reduced allowance payable to the judge for life and a payment or allowance payable to his or her surviving spouse, as specified.

This bill would authorize a judge who elects one of those 3 optional settlements to designate a beneficiary other than his or her spouse to

receive the payment or allowance after his or her death, subject to the community property rights of the judge's spouse. The bill would also require that, if a judge elects, on or after January 1, 2003, to receive specified benefits, and the judge and his or her optional settlement beneficiary both die before receiving in annuity payments the full amount of the judge's accumulated contributions at retirement, the balance of the judge's accumulated contributions be paid to the judge's estate.

~~The Judges' Retirement Law provides that, if a judge died in office with 20 years of service and had attained retirement age, his or her surviving spouse shall, if the judge so elected prior to his or her death, receive an allowance equal to the amount the judge would have received if the judge had retired on the date of death and had elected optional settlement 2.~~

~~Under this bill, that allowance would, subject to the judge's prior election, be payable to the surviving spouse of a judge who died in office with 20 years of service, irrespective of the judge's age at the time of death. This bill would also delete provisions that require the judge to elect to come within these provisions, as specified.~~

~~This bill would incorporate additional changes in Section 75094 of the Government Code, proposed by SB 1539, to be operative only if SB 1539 and this bill are both chaptered and become effective on or before January 1, 2003, and this bill is chaptered last.~~

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 68543.5 of the Government Code is  
2 amended to read:  
3 68543.5. (a) Whenever a judge who has retired under the  
4 Judges' Retirement System or the Judges' Retirement System II  
5 is assigned to serve in a court of record, the state shall pay the judge  
6 for each day of service in the court in the amount specified in  
7 Section 68543.7, without loss or interruption of retirement  
8 benefits, unless the judge waives compensation under this section.  
9 Whenever a retired judge of a justice court who is not a member  
10 of the Judges' Retirement System nor the Judges' Retirement  
11 System II is assigned to serve in a court of record, the state shall  
12 pay the judge for each day of service in the court in the amount

1 specified in Section 68543.7, or the compensation specified in  
2 Section 68541, whichever is greater. The compensation shall be  
3 paid by the Judicial Council out of any appropriation for extra  
4 compensation of judges assigned by the Chairperson of the  
5 Judicial Council.

6 (b) If a judge who has retired under the Judges' Retirement  
7 System or the Judges' Retirement System II is assigned to serve  
8 in a court of record, the 8-percent difference between the  
9 compensation of the retired judge while so assigned and the  
10 compensation of a judge of the court to which the retired judge is  
11 assigned shall be paid to the Judges' Retirement Fund or the  
12 Judges' Retirement System II Fund, as applicable.

13 (c) During the period of assignment, a retired judge shall be  
14 allowed expenses for travel, board, and lodging incurred in the  
15 discharge of the assignment. When assigned to sit in the county in  
16 which he or she resides, the judge shall be allowed expenses for  
17 travel and board incurred in the discharge of the assignment. The  
18 expenses for travel, board, and lodging shall be paid by the state  
19 under the rules adopted by the Board of Control that are applicable  
20 to officers of the state provided for in Article VI of the Constitution  
21 while traveling on official state business.

22 (d) Notwithstanding the above provisions pertaining to  
23 compensation, a retired judge on senior judge status shall receive  
24 compensation from the state as provided in Sections 75028 and  
25 75028.2, and shall be allowed expenses for travel, board, and  
26 lodging incurred in the discharge of the assignment as provided in  
27 this section.

28 SEC. 2. Section 75071 of the Government Code is amended  
29 to read:

30 75071. (a) Optional settlement one consists of the right to  
31 have a retirement allowance paid to him or her for life and if he or  
32 she dies before he or she receives the amount of his or her  
33 accumulated contributions at retirement, to have the balance at  
34 death paid to his or her designated beneficiary or his or her estate.

35 (b) (1) Optional settlement two consists of the right to have a  
36 retirement allowance paid to him or her for life and thereafter to  
37 his or her designated beneficiary for life.

38 (2) If the judge's designated beneficiary predeceases the judge  
39 and the judge elected this optional settlement to be effective on or  
40 after January 1, 2002, the judge's allowance shall be adjusted

1 effective the first day of the month following the death of the  
2 beneficiary to reflect the benefit that would have been paid had the  
3 judge not elected an optional settlement.

4 (3) If the marriage of a retired judge is dissolved or annulled or  
5 if the retired judge and his or her beneficiary spouse are legally  
6 separated and the judgment dividing their community property  
7 awards the total interest in this system to the retired judge, and the  
8 retired judge elected this optional settlement to be effective on or  
9 after January 1, 2002, the retired judge's allowance shall be  
10 adjusted effective the first day of the month following the filing of  
11 the judgment with the board to reflect the benefit that would have  
12 been paid had the judge not elected an optional settlement.

13 (c) (1) Optional settlement three consists of the right to have  
14 a retirement allowance paid him or her for life, and thereafter to  
15 have one-half of his or her retirement allowance paid to his or her  
16 designated beneficiary for life.

17 (2) If the judge's designated beneficiary predeceases the judge  
18 and the judge elected this optional settlement to be effective on or  
19 after January 1, 2002, the judge's allowance shall be adjusted  
20 effective the first day of the month following the death of the  
21 beneficiary to reflect the benefit that would have been paid had the  
22 judge not elected an optional settlement.

23 (3) If the marriage of a retired judge is dissolved or annulled or  
24 if the retired judge and his or her beneficiary spouse are legally  
25 separated and the judgment dividing their community property  
26 awards the total interest in this system to the retired judge, and the  
27 retired judge elected this optional settlement to be effective on or  
28 after January 1, 2002, the retired judge's allowance shall be  
29 adjusted effective the first day of the month following the filing of  
30 the judgment with the board to reflect the benefit that would have  
31 been paid had the judge not elected an optional settlement.

32 (d) Optional settlement four consists of other benefits that are  
33 the actuarial equivalent of his or her retirement allowance, that he  
34 or she may select subject to the approval of the Judges' Retirement  
35 System.

36 (e) When a judge elects, on or after January 1, 2003, to receive  
37 benefits provided by paragraph (2) of subdivision (b) or paragraph  
38 (2) of subdivision (c), and the judge and his or her optional  
39 settlement beneficiary both die before receiving in annuity  
40 payments the full amount of the judge's accumulated contributions

1 at retirement, the balance of the judge's accumulated contributions  
2 shall be paid to the judge's estate.

3 SEC. 3. Section 75072 of the Government Code is amended  
4 to read:

5 75072. If, during the life of a judge who has elected to receive  
6 an optional settlement in lieu of a retirement allowance for his or  
7 her life alone, or during the life of a beneficiary under an optional  
8 settlement upon whose life contingency the optional settlement  
9 elected depends, the compensation payable to the judge holding  
10 the judicial office to which the retired judge was last appointed or  
11 elected by the people prior to his or her retirement is increased, the  
12 amounts payable to the retired judge or to his or her beneficiary,  
13 or both, shall be recomputed and increased to be the actuarial  
14 equivalent of the increased amount of the retirement allowance to  
15 which the retired judge would be entitled if he or she had not  
16 elected an optional settlement. However, this section does not give  
17 any retired judge or his or her beneficiary any claim against the  
18 state for any increase in retirement allowance or other benefit for  
19 time prior to the increase in the compensation of the incumbent  
20 judge.

21 SEC. 4. Section 75074 is added to the Government Code, to  
22 read:

23 75074. (a) Except as provided in subdivision (b), a judge  
24 may, at any time, including, but not limited to, at any time after  
25 reaching retirement age, designate a beneficiary to receive the  
26 benefits as may be payable to his or her beneficiary under this  
27 article, by a writing filed with the board.

28 (b) No designation may be made in derogation of the  
29 community property share of any nonmember spouse when any  
30 benefit is derived, in whole or in part, from community property  
31 contributions or service credited during the period of marriage,  
32 unless the nonmember spouse has previously obtained an  
33 alternative order for division pursuant to Section 2610 of the  
34 Family Code.

35 (c) The designation, subject to conditions imposed by board  
36 rule, may be by class, in which case the members of the class at the  
37 time of the judge's death shall be entitled as beneficiaries. The  
38 designation shall also be subject to the board's conclusive  
39 determination, upon evidence satisfactory to it, of the existence,  
40 identity, or other facts relating to entitlement of any person

1 designated as beneficiary, and payment made by this system in  
2 reliance on any determination made in good faith, notwithstanding  
3 that it may not have discovered a beneficiary otherwise entitled to  
4 share in the benefit, shall constitute a complete discharge and  
5 release of this system for further liability for the benefit.

6 ~~SEC. 5.—Section 75094 of the Government Code is amended~~  
7 ~~to read:~~

8 ~~75094. (a) Notwithstanding any other provision of this~~  
9 ~~article to the contrary, the surviving spouse of a judge of any age~~  
10 ~~who (1) died in office, and (2) had a minimum of 20 years of~~  
11 ~~service, shall receive an allowance that is equal to the amount that~~  
12 ~~the judge would have received if the judge had been retired from~~  
13 ~~service on the date of death and had elected optional settlement~~  
14 ~~specified in subdivision (b) of Section 75071.~~

15 ~~(b) A surviving spouse receiving an allowance pursuant to this~~  
16 ~~section shall have no other claim to benefits with respect to the~~  
17 ~~Judges' Retirement Fund or with respect to any other provision of~~  
18 ~~the Judges' Retirement Law.~~

19 ~~SEC. 5.5.—Section 75094 of the Government Code is amended~~  
20 ~~to read:~~

21 ~~75094. (a) Notwithstanding any other provision of this~~  
22 ~~article to the contrary, the surviving spouse of a judge of any age~~  
23 ~~who (1) died in office, and (2) had a minimum of 20 years of~~  
24 ~~service, shall receive an allowance that is equal to the amount that~~  
25 ~~the judge would have received if the judge had been retired from~~  
26 ~~service on the date of death and had elected optional settlement~~  
27 ~~specified in subdivision (b) of Section 75071.~~

28 ~~(b) A surviving spouse receiving an allowance pursuant to this~~  
29 ~~section shall have no other claim to benefits with respect to the~~  
30 ~~Judges' Retirement Fund or with respect to any other provision of~~  
31 ~~the Judges' Retirement Law.~~

32 ~~(c) This section does not prevent a surviving spouse from~~  
33 ~~claiming or receiving any payments to which he or she may be~~  
34 ~~entitled as a beneficiary under the Extended Service Incentive~~  
35 ~~Program set forth in Article 4.5 (commencing with Section~~  
36 ~~75085).~~

37 ~~SEC. 6.—Section 5.5 of this bill incorporates amendments to~~  
38 ~~Section 75094 of the Government Code proposed by both this bill~~  
39 ~~and SB 1539. It shall only become operative if (1) both bills are~~  
40 ~~enacted and become effective on or before January 1, 2003, (2)~~

- 1 ~~each bill amends Section 75094 of the Government Code, and (3)~~
- 2 ~~this bill is enacted after SB 1539, in which case Section 5 of this~~
- 3 ~~bill shall not become operative.~~

O

